IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

MACA.No. 582 of 2006()

OPMV.755/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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APPELLANT

P.K.SANKARANKUTTY, AVALLIYIL HOUSE,
T.V.PURAM P.O., VAIKOM, DIST. KOTTAYAM.

BY ADV. SRI.K.REGHU KOTTAPPURAM

RESPONDENTS:
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1. **ELSY BIJU, W/O. BIJU, MANTHUVELIL,**
   T.V.PURAM P.O., VAIKOM, DIST. KOTTAYAM.

2. **BINU, S/O. THOMAS, KANDATHIL HOUSE,**
   PALLIPPURATHUSSERRI, VAIKOM P.O.,
   DIST. KOTTAYAM.

3. **NEW INDIA ASSURANCE COMPANY LIMITED,**
   DIVISIONAL OFFICE, COLLECTRATE P.O., KOTTAYAM.

BY ADV. SRI.LAL GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.582 OF 2006

Dated 25th July, 2007

JUDGMENT

Koshy,J.

Appellant/petitioner met with a motor accident by which he has sustained depressed fracture to the fronto-temporal region, fracture to the right clavicle etc. According to the appellant, he was a toddy tapper and his monthly earning was about Rs.3,000/=. In the absence of any evidence, the Tribunal fixed it as Rs.2,000/=. He was aged 57 at the time of accident. Tribunal has taken 11 as the multiplier. If second schedule is taken as guidance, multiplier ought to have been fixed only at 8. It is true that even though disability was assessed at 20% by Ext.A6 certificate, after seeing the claimant and considering the nature of disabilities, Tribunal fixed his disability at 5%. Even if a higher percentage of disability is taken, multiplier will have to be reduced. Compensation for disability was assessed at Rs.13,200/=. Further, for loss of earning power Rs.5,000/= was awarded. Compensation for disability includes compensation for loss of earning power. Therefore, there is duplication. Considering the total compensation awarded

(Rs.40,000/= with 9% interest), nature of injuries and age of the claimant, we are of the view that just and reasonable compensation was awarded and no interference is required.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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